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Attorneys for the Plaintiff

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF ALASKA

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
vs.)	No. 3:19-cr-00110-RRB-DMS
)	
LAVERN RAY DAVIDHIZAR,)	
)	
Defendant.)	
_____)	

**UNITED STATES'S MOTION
FOR A PROTECTIVE ORDER REGARDING DISCOVERY**

Pursuant to Fed. R. Crim. P. 16(d)(1), the United States of America, through undersigned counsel, requests that the court enter a protective order governing discovery in this matter. Such an order would protect patients' privacy rights, protect the government and defendant, and his counsel and agents, from claims of improper disclosure

of confidential information, and facilitate the exchange of discovery. In support of this motion, the government states the following.

1. On October 17, 2019, an Indictment was filed charging the defendant with three counts of unlawful distribution of controlled substances in violation of 21 U.S.C. § 841(a)(1). The Indictment alleges that Davidhizar, a former physician who surrendered his medical license near the time of his arrest in this matter, prescribed controlled substances without a legitimate medical purpose and outside the usual course of professional practice.

2. The United States plans to produce voluminous discovery, including patient files for hundreds of individuals containing health information as defined in 42 U.S.C. 1320d et seq. (“HIPAA”), other personal identifying information, Alaska Prescription Drug Monitoring Program (PDMP) data and records, and true images of law enforcement officers acting in undercover capacities.

3. Accordingly, much of the discovery in this case is comprised of medical diagnoses and conditions (including mental health) and health insurance information governed by HIPPA. The discovery will also consist of social security numbers, driver license numbers, phone numbers, email addresses, residential addresses, and other confidential information. In addition, the United States will produce many records reflecting banking and financial account numbers and activity.

4. Further, because of the number of documents and records that hold private, confidential, or proprietary information and the number of places within those documents that such information appears, redacting each instance of such information is not feasible.

5. The United States therefore seeks a protective order to allow the government to disclose certain material obtained in this investigation; to prohibit the unauthorized disclosure of discovery materials and any information contained therein to non-litigants; and to establish safeguards to ensure compliance with the terms of the protective order.

6. Undersigned counsel has conferred with Robert M. Herz, counsel for the defendant. Counsel opposes the scope of the proposed protective order.

7. The United States, nonetheless, respectfully requests that the court enter the proposed protective order, which is attached.

RESPECTFULLY SUBMITTED on December 18, 2019, in Anchorage, Alaska.

BRYAN SCHRODER
United States Attorney

s/Stephen L Corso
STEPHEN L. CORSO
Assistant United States Attorney

CERTIFICATE OF SERVICE

I hereby certify that on December 18, 2019, a true and correct copy of the foregoing was served via electronic mail on the following:

Robert M. Herz
rmherz@gci.net

s/ Stephen L Corso
Assistant United States Attorney